

forthwith, and unless claimant wishes to accept the government's offer, it will be otherwise disposed of in accordance with the provisions of Sec. 334 (d).

#### FINDINGS OF FACT

"1. This proceeding was commenced by the filing of a libel on July 8, 1949. Monition was issued on that date and the article was seized by the Marshal on July 13, 1949, in the possession of Bowne Morton Stores, Inc., 595 Smith Street, Brooklyn, New York, to the account of Lorraine Trading Corp., Brooklyn, New York.

"2. Lorraine Trading Corp., a New York corporation, intervened as claimant and owner of the seized article.

"3. The article seized consisted of 391 bags, each containing approximately 100 pounds, of roasted coffee beans.

"4. On June 14, 1949, claimant purchased this coffee at an auction conducted for the sale of the bankrupt stock of Coffette Products, Inc., in Brooklyn, New York.

"5. That the aforesaid coffee contained wood splinters, dirt, rodent excreta and other extraneous material and added chlorides. The presence of much of this extraneous matter resulted from part of the coffee having been salvaged from a fire, and the remainder having been submerged for about two days in polluted sewage water of the Hudson River off Jersey City, New Jersey.

"6. The coffee herein is unfit for food but may be used for commercial purposes.

#### CONCLUSIONS OF LAW

"1. This Court has jurisdiction of the subject matter of the above-entitled proceeding and of the parties thereto by virtue of 21 U. S. C. 334 (a).

"2. The coffee seized is an article used for drink by man, and is, therefore, a food within the meaning of 21 U. S. C. 321 (f).

"3. The article seized was shipped in interstate commerce within the meaning of 21 U. S. C. 321 (b).

"4. The food seized was adulterated within the meaning of 21 U. S. C. 342 (a) (3) while in interstate commerce.

"5. The food seized is subject to condemnation pursuant to 21 U. S. C. 334 (a), and libellant is entitled under 21 U. S. C. 334 (e) to costs incurred in this proceeding.

"6. If the claimant so desires, it may, by posting good and sufficient bond within ten days from the entry of the decree and payment of costs, salvage the coffee for commercial purposes under the supervision of the Federal Security Agency in accordance with the provisions of 21 U. S. C. 334 (d)."

On May 31, 1950, the court entered a decree providing for the destruction of the product.

**16752. Adulteration of coffee sweepings. U. S. v. 34 Bags, etc. (F. D. C. No. 27562. Sample Nos. 56701-K to 56703-K, incl.)**

**LIBEL FILED:** July 8, 1949, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about February 19 and April 17, 1949, from various foreign countries.

**PRODUCT:** 34 second-hand burlap bags, each containing approximately 132 pounds, and 21 bags, each containing approximately 145 pounds, of coffee sweepings at Brooklyn, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of wood splinters, metal fragments, dirt, and other extraneous material.

**DISPOSITION:** December 4, 1950. The Lorraine Trading Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing under the supervision of the Food and Drug Administration, so that it could not be used for human food but could be used for commercial purposes.