

**BEVERAGES AND BEVERAGE MATERIALS**

21451. Action to enjoin and restrain interstate shipment of adulterated beer. U. S. v. Rubsam & Horrmann Brewing Co. Temporary injunction granted. Action subsequently discontinued. (Inj. No. 273.)

COMPLAINT FILED: December 9, 1953, Eastern District of New York, against the Rubsam & Horrmann Brewing Co., a corporation, Staten Island, N. Y.

NATURE OF CHARGE: That the defendant was engaged in the manufacture and selling of beer and had been and was, at the time of filing the complaint, causing the introduction and delivery for introduction into interstate commerce of beer which was adulterated under Section 402 (a) (3) and (4), in that it consisted in whole or in part of filthy substances by reason of its contamination with insect filth in the course of manufacture so as to result in the incorporation of soluble portions of insect filth in the finished product, and in that the beer had been and was being prepared, packed, and held under insanitary conditions at the defendant's plant whereby it may have become contaminated with filth.

The insanitary conditions in the defendant's plant resulted from and consisted of the presence of live beetles, silverfish, ants, moths, flour beetles, sawtooth grain beetles, lesser grain borer beetles, larvae, larval cast skins, pupae, cockroaches, insect fragments, clumps of insect excreta and frass, bird feathers, bird excreta, and rodent pellets in and around places in the plant where the raw materials used in the manufacture of the beer were received, conveyed, and stored; in and around equipment used for the conveyance and storage of raw materials; and in and around equipment used for manufacturing and preparing beer. The insanitary conditions resulted also from general carelessness on the part of the defendant and its employees whereby the beer prepared, packed, and held in the defendant's plant was subjected to contamination.

The complaint alleged further that the defendant had on hand at its plant approximately 1,016 barrels of adulterated beer which was to be bottled, canned, or placed in kegs and thereafter distributed, and that a substantial proportion, in the usual and ordinary course of business, would be shipped in interstate commerce, thereby constituting a menace to interstate commerce because of contamination with filth.

DISPOSITION: On December 9, 1953, an order was entered directing the defendant to show cause why a preliminary injunction should not issue. This order also enjoined the defendant from introducing or delivering for introduction into interstate commerce any of the stock of the 1,016 barrels of beer then held at the defendant's plant, until such time as a motion for a preliminary injunction had been heard.

Following correction of the objectionable conditions in the defendant's plant and destruction of the adulterated stock of beer, the court entered an order on March 17, 1954, dissolving the injunction of December 9, 1953, and ordering that the action be discontinued.

21452. Adulteration of unroasted coffee beans. U. S. v. 1,048 Bags \* \* \*. (F. D. C. No. 36307. Sample No. 64362-L.)

LABEL FILED: February 10, 1954, Western District of Washington.

ALLEGED SHIPMENT: On or about July 20, 1953, by German Merino & Cia, Ltd., from Cundinamarca, Colombia.

**PRODUCT:** 1,048 bags, each containing 140 pounds, of unroasted coffee beans at Seattle, Wash.

**LABEL, IN PART:** "Merino Armenia Excelso Product of Colombia."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained an added poisonous and deleterious substance, lead, which may have rendered the article injurious to health; and, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, lead, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** February 15, 1954. Machado & Co., New York, N. Y., 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 segregation of the unfit portion under the supervision of the Department of Health, Education, and Welfare. As a result of the segregation operations, 29½ bags were found unfit and were destroyed.

**21453. Adulteration of unroasted coffee beans. U. S. v. 434 Bags \* \* \*. (F. D. C. No. 35501. Sample Nos. 42102-L to 42106-L, incl.)**

**LABEL FILED:** September 22, 1953, Northern District of California.

**ALLEGED SHIPMENT:** On or about July 10, 1953, from Colombia.

**PRODUCT:** 434 140-pound bags of unroasted coffee beans at San Francisco, Calif.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (1), the article contained an added poisonous and deleterious substance, lead, which may have rendered the article injurious to health; and, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, lead, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

**DISPOSITION:** On October 6, 1953, East Asiatic Co., Inc., San Francisco, Calif., having appeared as claimant for 415 of the 434 bags of the product under seizure and consented to the entry of a decree, judgment of condemnation was entered against the 415 bags, and the court ordered that these bags be released under bond for reconditioning under the supervision of the Food and Drug Administration. On April 6, 1954, the Bunge Corp., San Francisco, Calif., having appeared as claimant for the remaining 19 bags of the product under seizure and consented to the entry of a decree, judgment of condemnation was entered against the 19 bags, and the court ordered that these bags be released under bond for reconditioning under the supervision of the Food and Drug Administration.

As a result of the reconditioning operations, 76 bags from the lot which was released under bond to East Asiatic Co., Inc., and all of the 19 bags released under bond to the Bunge Corp. were found unfit and were destroyed.

**21454. Adulteration of unroasted coffee beans. U. S. v. 174 Sacks \* \* \*. (F. D. C. No. 35476. Sample Nos. 64361-L, 64644-L.)**

**LABEL FILED:** September 10, 1953, Western District of Washington.

**ALLEGED SHIPMENT:** On or about July 20, 1953, from Cundinamarca, Colombia.

**PRODUCT:** 174 sacks, each containing 140 pounds, of unroasted coffee beans at Seattle, Wash.

**LABEL, IN PART:** "Merino \* \* \* Armenia Excelso Product of Colombia."