

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1823.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF COFFEE.

On December 12, 1911, the United States Attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Thomson & Taylor Spice Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on August 25, 1909, from the State of Illinois into the State of Colorado of a quantity of coffee which was misbranded. The product was labeled: "The Thomson & Taylor Spice Co. Java & Mocha Gold Band Coffee Chicago."

Examination of a sample of the product by the Bureau of Chemistry of this Department indicated that it was a washed Java. There was a very small percentage of coffee that might, through appearance, be Abyssinian. The cup failed to give the character of this coffee. If present at all it was in such small quantity as to be of no effect. Misbranding was alleged in the information for the reason that the product was labeled as set forth above, which label was false and misleading in that it purported to state that the product was Java and Mocha coffee whereas as a matter of fact it was not so but was a washed Java and Mocha coffee and a small percentage of a coffee known as "Abyssinian coffee."

The case having come on for hearing before the court, at the close of the hearing the court took the matter under advisement and on June 17, 1912, the defendant was found guilty as shown by the following memorandum decision by the court (Landis, *J.*):

I made a memorandum of the disposition of this case, contrary to my usual custom, because of what the parties seemed to have in mind as to the importance of the question to people engaged in the coffee business.

In this case the defendant company is charged with violation of the misbranding section of the pure food law, in that there has been the use of the geographical name "Mocha" in connection with the sale of coffee grown in Abyssinia. Against the defendant it is urged that the word Mocha can lawfully be used only to designate coffee grown in Arabia. The facts are that on one side of the Red Sea is Arabia, on the other side is Abyssinia. Coffee is, and for centuries has been, grown in both of these countries. Up to about two hundred years ago practically all of the Arabian product, and a portion of the Abyssinian product, was shipped through the port of Mocha, located on the Arabian side of the Red Sea. Because of this fact this coffee was called Mocha. At that time, owing to the formation of a sandbar obstructing the entrance of the harbor of Mocha, the port ceased to be the point of shipment for that coffee product, and since that time it has come out mainly through the port of Aden in Arabia. This is the case now with respect to both Arabian and Abyssinian products, as it was up to two hundred years ago with respect to both products at the port of Mocha.

The pure food regulation adopted under the authority conferred by the national pure food law is as follows:

"The use of a geographical name in connection with a food or drug product will not be deemed a misbranding when, by reason of long usage, it has come to represent a generic term, and is used to indicate a style, type or brand, but in such cases the State or Territory where any such article is manufactured or produced shall be stated on the principal label."

As above observed, Mocha is not a place where the coffee is manufactured or produced. It is merely the port through which originally the coffee referred to found its way to market. This being true, the above regulation plainly requires the use of the word "Abyssinia" in connection with the word "Mocha" to cover coffee grown in Abyssinia, as the same law plainly requires the use of the word "Arabia" in connection with "Mocha" to cover coffee grown in Arabia.

In view of the fact that it was agreed on all sides that this case was brought as a test case to determine this question, the minimum penalty of one dollar will be imposed.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 18, 1912.*

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