

or in part of a poisonous or deleterious substance which might have rendered it injurious to health.

On February 29, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**495. Misbranding of confectionery. U. S. v. 988 Boxes of Colonial Maid Confection. Default decree of condemnation and destruction. (F. D. C. No. 595. Sample No. 73931-D.)**

These packages each contained a quantity of candy and a prize, the two together occupying on the average slightly less than one-half of the capacity of the package.

On September 14, 1939, the United States attorney for the District of Massachusetts filed a libel against 988 boxes of Colonial Maid Confection at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about August 22, 1939, by the Casey Concession Co. from Chicago, Ill.; and charging that it was misbranded in that its container was so made, formed, or filled as to be misleading. It was labeled in part: "Colonial Maid Confection \* \* \* One Ounce or Over."

On January 29, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**496. Adulteration and misbranding of candy. U. S. v. 15½ Dozen Boxes of Mrs. Murray's Summer Confections and 3 Cases of Mrs. Murray's Creamy Caramellettes. Default decree of condemnation. Product delivered to charitable institutions. (F. D. C. Nos. 665, 666. Sample Nos. 66690-D, 66691-D.)**

The Summer Confections contained little or no chocolate, little or no fruit, and little or no butter, ingredients which the labeling represented were present in the article. Their containers had false bottoms and extension edges, and were wrapped in colored cellophane, which created the impression that each box was larger than it was. Furthermore, the candy occupied not more than 28 percent of the capacity of the box. The Creamy Caramellettes consisted of taffy candy wrapped in paper with twisted ends. The candy, when closely packed, occupied slightly more than one-half of the capacity of the box. The declaration of weight on the boxes of the Creamy Caramellettes was incorrect and the statement of contents on the box of the Summer Confections gave no accurate indication of the amount of food in the package.

On or about November 3, 1939, the United States attorney for the Western District of Missouri filed libels against the above-stated quantities of candy at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about August 8, 1939, by the Casey Concession Co. from Chicago, Ill.; and charging that it was misbranded and that one lot was also adulterated.

The product labeled "Summer Confections" was alleged to be adulterated in that an article containing little or no chocolate, fruit, or butter had been substituted wholly or in part for it. It was alleged to be misbranded in that the statement on the label, "Orchard Fruits \* \* \* Marmalades Butter Cream Chocolates Opera Fruit Nougats Tropical Fruit Rolls," was false and misleading since these ingredients were not present. It was alleged to be misbranded further in that its container was so made, formed, or filled as to be misleading; and in that it was in package form and did not bear an accurate statement of the quantity of contents, since the statement "Contents 15 Pieces or Over" gave no accurate indication of the amount of food in the package.

The product labeled "Creamy Caramellettes" was alleged to be misbranded in that its container was so made, formed, or filled as to be misleading. It was alleged to be misbranded further in that the statement "Net Weight 10 Ozs. or Over" was false or misleading, since the packages did not contain 10 ounces but did contain a smaller amount. It was alleged to be misbranded still further in that it was in package form and did not bear an accurate statement of the quantity of contents.

On March 8, 1940, no claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to charitable institutions.

**497. Misbranding of candy. U. S. v. 6 Boxes, 56 Boxes, and 9 Boxes of Candy. Consent decree of condemnation. Product ordered delivered to a Government hospital. (F. D. C. Nos. 854, 855, 856. Sample Nos. 70683-D, 70684-D, 70685-D.)**

One lot of candy labeled "Sweet's Salt Lake Cordial Cherries" was contained in cardboard boxes with extension edges and with a false bottom  $\frac{7}{16}$  inch

high, the total height of the box being  $1\frac{1}{2}$  inches. The candy was in one layer. The statement of the quantity of contents was inconspicuously placed on a side panel. The second lot labeled "Sweet's Salt Lake DeLuxe Chocolates" was contained in cardboard boxes with extension edges. Each box contained 2 layers. The top layer had 15 pieces of candy. The bottom layer was divided by 2 cardboard strips which permitted packing but 10 pieces. A third lot labeled "Sweet's Salt Lake Cherry Cocktails" was also contained in cardboard boxes. The candy was in a single layer. Two pieces of cardboard in the bottom of the box totaled approximately  $\frac{1}{4}$  inch in height, the total height of the box being  $1\frac{1}{16}$  inches. The quantity of contents statement was inconspicuous and was incorrect.

On November 29, 1939, the United States attorney for the District of Wyoming filed a libel praying seizure and condemnation of 71 boxes of candy at Cheyenne, Wyo., alleging that the article had been shipped in interstate commerce on or about September 28, October 6 and 27, 1939, by Sweet Candy Co., from Salt Lake City, Utah; and charging that it was misbranded.

All lots were alleged to be misbranded in that the containers were so made, formed, or filled as to be misleading. Two lots were alleged to be misbranded further in that the statement of the quantity of contents required by the statute to appear on the label was not prominently placed thereon with such conspicuousness as to render it likely to be read by an ordinary individual under customary conditions of purchase and use. One lot was alleged to be misbranded further in that the statement "Net Weight 10 Ounces" was false and misleading since it was not correct, the average net weight of the contents of the boxes being 9.64 ounces.

On December 21, 1939, Sweet Candy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, the decree containing a provision that the product might be taken down under bond for repacking or other lawful disposition. On February 2, 1940, the claimant having failed to comply with the conditions of the decree, the product was ordered delivered to a Government hospital.

**498. Misbranding of assorted chocolates. U. S. v. 84 Dozen Boxes and 40 Dozen Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 774. Sample Nos. 68029-D, 68030-D.)**

In one lot of this candy the boxes had false bottoms which occupied  $18\frac{3}{4}$  percent of the inside volume of the box. In the other lot the boxes were cellophane-wrapped, the tops and bottoms of the boxes extending beyond the sides; and the lower layer of candy contained fewer pieces than the upper layer. The boxes in the latter lot could have held an average of eight additional pieces of candy. The statement of the quantity of the contents was placed on the side of the boxes in both instances.

On October 19, 1939, the United States attorney for the District of New Jersey filed a libel against 124 dozen boxes of assorted chocolates at Bayonne, N. J., alleging that the article had been shipped in interstate commerce on or about July 19, August 31, and September 13, 1939, by D. Arnould Co. from New York, N. Y.; and charging that it was misbranded. It was labeled in part: "Treat Package [or "Colonial Fine"] Assorted Chocolates \* \* \* Colonial Candy Co., Bayonne, N. J."

The article was alleged to be misbranded in that its containers were so made, formed, or filled as to be misleading. It was alleged to be misbranded further in that the statement of the quantity of the contents required by law to appear upon the label was not prominently placed thereon with such conspicuousness as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

On January 24, 1940, a default decree of condemnation, forfeiture, and destruction was entered.

**499. Misbranding of chocolate-covered cherries. U. S. v. 17 Cases of Chocolate Covered Cherries. Default decree of condemnation, forfeiture, and destruction. (F. D. C. No. 1169. Sample No. 70957-D.)**

Examination showed that the boxes contained two layers of chocolate-covered cherries, the individual pieces having been separated by cardboard partitions and each layer supposedly containing 12 pieces. However, some of the compartments in the bottom layer were not filled. The net contents was less than 1 pound, the weight declared on the label.