

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.