

1389. Misbranding of candy. U. S. v. 1,340 Boxes of Candy of Assorted Sizes and Kinds (and 1 other seizure of candy). Default decrees of condemnation and destruction. (F. D. C. Nos. 2317, 2468. Sample Nos. 14357-E to 14361-E, incl., 33295-E, 33297-E, 33390-E, 33361-E, 33362-E, 33363-E.)

These candies, which were all wrapped in wax paper, occupied less than the capacity of the box in which they were packed, the shortage varying in the different types from approximately 30 percent to approximately 52 percent. In two of the lots, the name and place of business of the manufacturer, packer, or distributor, and the statement of the quantity of contents were hardly legible or were completely concealed by folds of the colored cellophane wrapper. In one lot the weight was less than the amount declared on the label.

On July 5 and August 2, 1940, the United States attorneys for the Eastern District of Pennsylvania and the District of Connecticut filed libels against 1,340 boxes of candy at Philadelphia, Pa., and 778 packages of candy at Hartford, Conn., alleging that the article had been shipped in interstate commerce within the period from on or about June 19 to on or about June 27, 1940, by Delight Sweets, Inc., from New York, N. Y.; and charging that it was misbranded. It was labeled in part variously: "Sugar Dandies"; "Flavored Gold Crest Confections"; "Salt Water Taffee"; "Oriental Sweets"; "Sliced Orange Gums"; "Fashion Sweets"; "Delights Assorted Chews"; "Smiles"; and "Societ Sweets."

The article was alleged to be misbranded in that its containers were so made, formed, or filled as to be misleading. Certain lots were alleged to be misbranded further in that the name and place of business of the manufacturer, packer, or distributor, and the statement of the quantity of the contents required by law to appear on the label was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The product labeled "Societ Sweets" was alleged to be misbranded further in that the statement on the label, "Net Weight 7 Ozs.," was false and misleading since it was incorrect; and in that it was in package form and did not bear an accurate statement of the quantity of the contents.

On July 29 and September 23, 1940, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

1390. Misbranding of candy. U. S. v. 3 and 2 Cartons of Candy. Default decree of condemnation and destruction. (F. D. C. No. 2318. Sample Nos. 33286-E, 33287-E.)

Both lots of this product were packed in deceptive containers. One lot consisted of gum drops, which were wrapped in wax paper with twisted ends, and which occupied only about one-half of the space in their containers. The other lot was contained in a cellophane-wrapped box with ¼-inch extension edges on top and bottom. This box contained three layers, the top one being well-filled and containing about 23 chocolates and 8 candy-covered peanuts. The second and third layers contained only about 6 chocolates and 7 gum drops loosely packed with cardboard separators between the pieces. The statement of the quantity of the contents was inconspicuous in both of these lots. The second lot was also short of the declared weight, and was labeled "Nuts and Fruits Creams," but contained no nuts except a few peanuts and no fruit, and most of the creams were artificially flavored.

On or about July 8, 1940, the United States attorney for the District of Connecticut filed a libel against five cartons of candy at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce on or about June 18, 1940, by the Marvel Novelty Co., Inc., from New York, N. Y.; and charging that it was misbranded. The articles were labeled in part: "Nuts and Fruits Creams Superior Quality [design of a bowl of fruit] * * * One Pound Net"; or "Manhattan * * * wrapped candy net weight 3 oz."

The nuts and fruits creams were alleged to be misbranded in that the statements "one pound net" and "Nuts and Fruits Creams" and the design of a bowl of fruit, were false and misleading since they were incorrect; and in that they were in package form and did not bear an accurate statement of the quantity of the contents; in that they were fabricated from two or more ingredients and the label did not bear the common or usual name of each such ingredient; and in that they contained artificial flavoring and did not bear labeling stating that fact.

Both lots were alleged to be misbranded in that their containers were so made, formed, or filled as to be misleading; and in that the quantity of con-