

3625. Misbranding of Ayds candy. U. S. v. 73 Packages of Ayds Easy Reducing Plan Candy (and 6 other seizure actions against Ayds candy). Default decrees of condemnation. Portion of product ordered destroyed. Remainder ordered distributed to charitable institutions. (F. D. C. Nos. 2334, 3162, 3600, 3601, 3670, 3999, 4752. Sample Nos. 15617-E, 27514-E, 29201-E, 29202-E, 33794-E, 35926-E, 35935-E.)

The labeling of this product bore false and misleading representations regarding its efficacy as a reducing agent.

Between July 11, 1940, and May 23, 1941, the United States attorneys for the Eastern District of Arkansas, District of New Jersey, Southern District of Ohio, and the Southern District of Alabama filed libels against 73 packages of Ayds candy at Little Rock, Ark., 37 boxes at Elizabeth, N. J., 160 various sized boxes at Cincinnati, Ohio, and 97 various sized boxes at Mobile, Ala., alleging that the article had been shipped in interstate commerce within the period from on or about May 4 to on or about December 10, 1940, by the Carlay Co., Fuller Laboratories, or Fuller Co. from Chicago, Ill.; and charging that it was misbranded.

The article was alleged to be misbranded in that the name "Ayds," the designs of slender female figures, designs of slender female figures superimposed on obese female figures, a picture entitled "Before," showing obese woman and one entitled "After," showing, presumably, the same individual after having lost 40 pounds, and a poster with picture of a female figure with the words underneath "Now Weighs 130 Lbs. Weighed 160 Lbs.," appearing in the labeling of the various lots, together with statements in circulars accompanying the various shipments, were false and misleading since the said words, designs, pictures and statements created the impression in the mind of the reader that the article, when used as directed and in conjunction with and as a part of the so-called plans referred to in the circulars as No. 1 Plan and No. 2 Plan, would because of its composition and characteristics, be of substantial value in reducing body weight; that it would aid the consumer to reduce pleasantly and without effort; and would aid the consumer to keep the weight down after having reduced to the desired weight and that it would aid the consumer to cut down on the amount of food eaten without feeling pangs of hunger, distress, faintness or debilitation; whereas it would not be efficacious for the purposes suggested.

The article, with the exception of one lot, was also alleged to be misbranded in violation of the provisions of the law applicable to drugs, as reported in D. D. N. J. No. 592.

Within the period from September 20, 1940 to August 19, 1941, no claimant having appeared, judgments of condemnation were entered and those lots located at Cincinnati and Mobile were ordered distributed to various charitable institutions, and the remaining lots were ordered destroyed.

3626. Adulteration of candy. U. S. v. 25 Boxes, 10 Boxes, and 10 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 7546. Sample No. 77208-E.)

This product contained insect fragments and hairs resembling those of rodents.

On or about May 21, 1942, the United States attorney for the District of Delaware filed a libel against 45 boxes of candy at Wilmington, Del., alleging that the article had been shipped in interstate commerce on or about May 12, 1942, by the American Caramel Co. from Lancaster, Pa.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Boxes) "Cat Birds 80 [or "Ow-Wah 120" or "Kid Gloves 80"] Count."

On June 10, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3627. Adulteration of marshmallows. U. S. v. 21 Cases of Marshmallows. Default decree of condemnation and destruction. (F. D. C. No. 7139. Sample No. 72774-E.)

This product contained insect fragments and wood slivers.

On April 7, 1942, the United States attorney for the District of Arizona filed a libel against 21 cases, each containing 12 12-ounce cellophane bags, of marshmallows at Tucson, Ariz., alleging that the article had been shipped in interstate commerce on or about January 14 and March 9, 1942, by Anthony Macaroni & Cracker Co., from Los Angeles, Calif.; and charging that it was adulterated (1) in that it consisted in whole or in part of a filthy substance; and (2) in that it was confectionery and contained a nonnutritive substance, wood slivers. The article was labeled in part: "Party Brand 'Softiest' Marshmallows."

On May 11, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

3628. Adulteration and misbranding of candy. U. S. v. 50 Cases of Candy. Default decree of condemnation. Product ordered delivered to the county authorities for use as hog feed. (F. D. C. No. 6872. Sample No. 87426-E.)

Samples of this product were found to contain rodent hairs and insect fragments. It was also short of the declared weight.

On February 18, 1942, the United States attorney for the Southern District of West Virginia filed a libel against 50 cases of candy at Bluefield, W. Va., alleging that the article had been shipped in interstate commerce on or about January 29, 1942, by Armstrong Candy Manufacturing Co. from Martel, Tenn.; and charging that it was adulterated and misbranded. It was variously labeled in part: "Armstrong's Goober Candy Bar," "Three Cheers," "Pink Lady," "Armstrong's Coconut Curls," "Plantation Fudge," "Banana Bits," "Chocolate Log," or "Yum."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

It was alleged to be misbranded in that the statements, "Net Wt. 1½ Ozs.," "Weight 1½ Oz.," "Net Wt. 1½ Ozs.," "Net Weight 1¼ Ozs.," and "Net Wt. 1 Oz.," borne on the labels, were false and misleading as applied to an article weighing less than the statements indicated; and in that it was in package form and did not bear a label containing an accurate statement of the quantity of contents.

On June 16, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the county authorities for use as hog feed.

3629. Adulteration and misbranding of candy. U. S. v. 518 Boxes of Candy (and 3 additional seizure actions against candy). Default decrees of condemnation and destruction. (F. D. C. Nos. 6582, 6634, 6717, 6774. Sample Nos. 18606-E, 50860-E, 75829-E, 87279-E.)

Hair fragments resembling rodent hairs and insect fragments were found in samples taken from these shipments. In one of the lots the bottom layer was found to contain only approximately two-thirds as many pieces of candy as the top layer.

Between December 22, 1941, and January 29, 1942, the United States attorneys for the District of Maryland, Southern District of West Virginia, and the District of Maine filed libels against 420 1-pound boxes, 66 2-pound boxes, and 32 4-pound boxes of candy at Frederick, Md.; 21¾ dozen 1-pound packages, 11 2-pound packages, and 11 4-pound packages at Charleston, W. Va.; and 102 1-pound boxes and 10 cartons each containing 24 pound boxes, of candy at Biddeford, Maine, alleging that the article had been shipped in interstate commerce within the period from on or about December 3, 1941, to on or about January 13, 1942, by the Boston Candy Co. from Boston, Mass.; and charging that it was adulterated and misbranded. The article was labeled in part: (Box) "Town Hall * * * Chocolates Manufactured by Fulton Candy Company, Boston, Mass.;" or "Copley Assortment * * * Manufactured By Boston Candy Company."

The article in all lots was alleged to be adulterated in that it consisted in whole or in part of a filthy substance. The "Copley Assortment" was alleged to be adulterated further in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

The lot of Town Hall chocolates located at Charleston, W. Va., was alleged to be misbranded in that their containers were so made, formed, or filled as to be misleading.

Between January 17 and February 10, 1942, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

3630. Adulteration of candy. U. S. v. 82 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 6881. Sample No. 90867-E.)

This product contained hair fragments resembling those of rodents.

On February 17, 1942, the United States attorney for the District of Rhode Island filed a libel against the following amounts of candy at Providence, R. I.—12 12-ounce boxes, 16 half-pound boxes, 45 1-pound boxes, and 9 2-pound boxes, alleging that the article had been shipped in interstate commerce on or about January 20, 1942, by the W. H. Cole Chocolate Co. from Boston, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions