

less than half the volume of the package; and (3) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 3, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to various welfare organizations.

**5136. Misbranding of candy. U. S. v. 266 Bags of Candy. Default decree of condemnation. Product ordered delivered to a welfare organization. (F. D. C. No. 10017. Sample No. 10368-F.)**

This product was short weight.

On May 28, 1943, the United States attorney for the Northern District of Texas filed a libel against 266 bags of candy at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about April 22, 1943, by the National Candy Co. from St. Louis, Mo.; and charging that it was misbranded. The article was labeled in part: "Old New Orleans Style Coffee Toffee 8 Ozs. Net."

The article was alleged to be misbranded in that the statement "8 Ozs." was false and misleading since it was incorrect, and in that the article was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a welfare organization.

#### CHOCOLATE PRODUCTS

**5137. Adulteration of chocolate coating. U. S. v. 57 Bales of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10010. Sample No. 45207-F.)**

This product was infested with live insect larvae. The slabs were contaminated on the surface with insect excreta pellets, webbing, cocoons, larvae, and cast skins. Worm cuts filled with insect pellets and webbing were numerous.

On May 24, 1943, the United States attorney for the Eastern District of New York filed a libel against 57 bales, each containing 20 paper-wrapped slabs, of chocolate coating at Long Island City, N. Y., alleging that the article had been shipped in interstate commerce within the period from on or about September 14, 1942, to April 1, 1943, by the Hershey Chocolate Corporation from Hershey, Pa.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances.

On June 30, 1943, the Loose-Wiles Biscuit Co., Long Island City, N. Y., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be salvaged by separating the fit from the unfit portion, under the supervision of the Food and Drug Administration. On October 4, 1943, the decree was amended to permit the claimant to salvage the product by brushing, scraping, and/or culling off all portions of the cakes of chocolate showing insect infestation, so as to bring it into conformity with the act.

**5138. Adulteration of chocolate coating. U. S. v. 9 Bags of Chocolate Coating. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 9791. Sample Nos. 42117-F, 42118-F.)**

This product was stored under insanitary conditions after shipment in interstate commerce. When examined, the bags were torn and the remains of several rodent nests were found by the inspector. The chocolate showed evidence of having been gnawed by rodents.

On April 13, 1943, the United States attorney for the Southern District of Ohio filed a libel against 9 bags of chocolate coating at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce within the period from on or about December 7, 1942, to March 10, 1943, from Hershey, Pa., and that it was in possession of the Kroger Grocery & Baking Co.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances by reason of the fact that it had been gnawed by rodents, and in that it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was labeled in part: (Paper wrapper) "Hershey's Puritan Sweet \* \* \* Chocolate Coating," or "Hershey's Summit Sweet Chocolate Coating."