

thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, and in that its label failed to bear the common or usual name of the food, candy. A portion of the article (4 cases) was alleged to be misbranded further in that the statement "Net Weight 6 Ozs." was false and misleading as applied to a product that was short weight; and in that its container was so made as to be misleading since it had an inset about one-half inch deep in the bottom of the package; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. The remainder of the article (11 cases) was alleged to be misbranded in that its container was so made and filled as to be misleading since it had an inset about one-half inch deep in the bottom of the package and the wrapped candy occupied only about 60 percent of the capacity of the container.

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

5446. Misbranding of candy and toy packages. U. S. v. 35 Cartons of Candy and Toy Packages (and 2 other seizure actions against candy and toy packages). Decrees ordering destruction of portion of product and delivery of remainder to charitable institutions. (F. D. C. Nos. 10143, 10144, 10281. Sample Nos. 37338-F, 43419-F, 46334-F to 46337-F, incl.)

Some of the packages were filled with 4 paper-wrapped candy kisses and a prize which, together, occupied, in certain packages, about 20 percent of the volume and, in other packages, about one-half of the volume. The remainder contained from 1 to 9 very small pieces of candy and a prize which, together, occupied less than 10 percent of the volume of the packages.

On or about June 24 and July 20, 1943, the United States attorneys for the District of Maryland and the Western District of Missouri filed libels against the following quantities of candy and toy packages: 35 cartons, each containing 100 packages, at Kansas City, Mo., and 28 cartons and 74 cartons, each containing 100 packages, and 58, 88, and 58 cartons, each containing 80 packages, at Baltimore, Md.; alleging that the articles had been shipped on or about May 24 and June 3 and 17, 1943, from Brooklyn, N. Y., by the Novel Package Corporation; and charging that they were misbranded. The articles were labeled in part: (Packages) "Candy & Toy General Douglas MacArthur Packed For and Distributed By Pioneer Specialty Co. Brooklyn, N. Y. [or "U. S. War Planes * * * Keep 'em Flying,"]," "U. S. Navy Warships * * * Packed and Distributed By Novel Package Corp.," or "Remember Pearl Harbor Candy & Toy * * * Packed and Distributed by Candyland Company Brooklyn, N. Y."

The articles were alleged to be misbranded in that their containers were so filled as to be misleading. A portion was alleged to be misbranded further in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On October 21, 1943, no claimant having appeared for the lot at Kansas City, a decree was entered ordering it to be destroyed. On November 15, 1943, no claimant having appeared for the lots at Baltimore, judgments of condemnation were entered and they were ordered delivered to a charitable institution.

5447. Misbranding of candy-filled glass toys. U. S. v. 9 Dozen Candy-Filled Glass Toys, et al. Default decree of condemnation. Products ordered distributed to a welfare organization. (F. D. C. No. 10126. Sample No. 34104-F.)

These products were short weight.

On June 21, 1943, the United States attorney for the Western District of New York filed a libel against the following candy-filled glass toys at Buffalo, N. Y.: 9 dozen automobiles, 12 dozen battleships, $8\frac{1}{4}$ dozen busses, and $1\frac{1}{12}$ dozen telephones, alleging that the articles had been shipped in interstate commerce on or about March 12 and May 20, 1943, by Victory Glass, Inc., Toy Division, from Jeanette, Pa.; and charging that they were misbranded. The articles were labeled in part: "Miniature Streamline Auto [or "Battleship" or "Motorbus"] * * * Contents $\frac{1}{2}$ Ounce or More," or "Miniature Dial Telephone * * * Contents $\frac{3}{4}$ Ounce or More."

They were alleged to be misbranded in that the statements "Contents $\frac{1}{2}$ Ounce or More" (auto, battleship, motorbus) and "Contents $\frac{3}{4}$ Ounce or More" (telephone) were false and misleading as applied to articles that were short weight;

and in that they were in package form and failed to bear labels containing an accurate statement of the quantity of the contents.

On July 22, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a welfare organization.

5448. Misbranding of candy. U. S. v. 849 Cases of Candy. Decree of condemnation. Product ordered released under bond to be made to conform with the law. (F. D. C. No. 10462. Sample No. 11547-F.)

The cartons contained 5 pieces of taffy wrapped in waxed paper with twisted ends. They were 4 inches tall and the average headspace measured $1\frac{9}{16}$ inches.

On August 25, 1943, the United States attorney for the Northern District of California filed a libel against 849 cases, each containing 120 cartons, of candy at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about June 14, 1943, by the United Cigar-Whelan Stores Corporation, from Brooklyn, N. Y.; and charging that it was misbranded in that its container was so filled as to be misleading since the candy occupied only about 62 percent of the volume of the carton. It was labeled in part: (Cartons) "Long Chews * * * manufactured by Fralinger's Atlantic City, N. J."

On October 21, 1943, the United Cigar-Whelan Stores Corporation, having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be made to conform with the law under the supervision of the Food and Drug Administration.

5449. Misbranding of cocoa confection. U. S. v. 3,607 Cases of a Confection labeled in part: "El Pais." Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10687. Sample No. 39364-F.)

This product was short weight.

On September 4, 1943, the United States attorney for the Southern District of California filed a libel against 3,607 cases, each containing 50 bars, of a cocoa confection at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 20 and 28, 1943, by Westfeldt Brothers, from New Orleans, La.; and charging that it was misbranded. The article was labeled in part: (Bar) "El Pais Net Weight $6\frac{1}{4}$ Oz. Cocoa Confection * * * Packed by 'La Ambrosia Industrial' S. A. Havana Cuba."

The article was alleged to be misbranded in that the statement "Net Weight $6\frac{1}{4}$ Oz." was false and misleading as applied to an article that was short weight; and in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents.

On September 27, 1943, the Safeway Stores, Inc., of Los Angeles, Calif., 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 for relabeling under the supervision of the Food and Drug Administration.

MISCELLANEOUS

5450. Adulteration of chocolate paste. U. S. v. 250 Bags of Chocolate Paste. Decree of condemnation. Product destroyed. (F. D. C. No. 10501. Sample No. 33680-F.)

On August 25, 1943, the United States attorney for the Western District of New York filed a libel against 250 bags of chocolate paste at Buffalo, N. Y., alleging that the article had been shipped on or about June 25, 1943, by the Warfield Company, from Chicago, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of larvae, insect fragments, and insect excreta.

On October 21, 1943, judgment of condemnation was entered and thereafter the product was destroyed.

5451. Misbranding of honey. U. S. v. 8 Cases of Honey. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 10512. Sample No. 34557-F.)

This product was short weight and contained undeclared artificial flavoring.

On August 28, 1943, the United States attorney for the Southern District of Florida filed a libel against 8 cases, each containing 24 jars, of honey at Jacksonville, Fla., alleging that the article had been shipped on or about May 21, 1943, by the Tavern Fruit Juice Co., Inc., from Brooklyn, N. Y.; and charging that it was misbranded. It was labeled in part: (Jars) "Rexley Brand' Pure