690. Misbranding of chocolate-covered cherries. U. S. v. 50 Cases of Candy. Default decree of condemnation. Product ordered delivered to charitable organizations. (F. D. C. No. 1006. Sample No. 58000–D.)

This candy was packed in boxes containing 2 layers. There were 12 pieces in the upper layer and only 8 pieces in the lower one. Moreover, there was much vacant space in the boxes.

On November 17, 1939, the United States attorney for the Southern District of California filed a libel against 50 cases, each containing 24 boxes, of "Windsor Chocolate Covered Cherries" at San Diego, Calif., alleging that the article had been shipped in interstate commerce on or about November 2, 1939, by the Chicago Candy Association from Chicago, Ill.; and charging that it was misbranded in that its container was so made, formed, or filled as to be misleading. It was labeled in part: "Cherry Specialty Co. * * * Chicago."

On December 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable organizations.

691. Misbranding of glace fruit. U. S. v. 30 Boxes of Glace Fruit. Default decree of condemnation and destruction. (F. D. C. No. 1220. Sample No. 88907–D.)

This product was contained in cellophane-wrapped baskets each containing two layers of candied fruit. The top layer was well-filled, but the lower one was divided into 20 sections by cardboard partitions. When these partitions were removed it was found that the fruit could be so packed that the lower layer could hold an additional amount equivalent to 40 percent of the capacity of the box.

On December 20, 1939, the United States attorney for the Eastern District of Wisconsin filed a libel against 30 boxes, each containing 1 basket of glace fruit, at Milwaukee Wis., alleging that the article had been shipped in interstate commerce on or about November 11, 1939, by the Prince Dried Fruit Co. from New York, N. Y.; and charging that it was misbranded in that its containers were so made, formed, and filled as to be misleading.

On March 8, 1940, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

692. Adulteration of sugar roasted peanuts. U. S. v. 3 Cartons of Sugar Roasted Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 997. Sample No. 58057–D.)

This product was in interstate commerce when examined and was found to contain rodent excreta at that time.

On November 18, 1939, the United States attorney for the District of Arizona filed a libel against three cartons of sugar roasted peanuts at Douglas, Ariz., alleging that the article had been shipped in interstate commerce on or about September 5, 1939, by E. J. Brach & Sons from Albuquerque, N. Mex.; and charging that it was adulterated in that it consisted wholly or in part of a filthy substance.

On February 5, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

693. Misbranding of popcorn candy confection. U. S. v. 5¼ Cases, each containing 200 cartons, of Popcorn Candy Confection. Default decree of condemnation, forfeiture, and destruction. (F. D. C. No. 1374. Sample No. 92102–D.)

The cartons of this product contained a wax paper bag of candy-dipped popcorn and a prize. The bag of popcorn occupied less than 60 percent of the capacity of the cartons. It was also found that the weight was less than the amount declared.

On January 23, 1940, the United States attorney for the District of Nevada filed a libel, and on February 2, 1940, an amended libel, against 5¼ cases of the above-named product at Reno, Nev., alleging that the article had been shipped in interstate commerce on or about December 9, 1939, by the Pacific Premium Co. from San Francisco, Calif.; and charging that it was misbranded. The article was labeled in part: "Movi Pops * * * Movi-Pops San Francisco, Calif."

It was alleged to be misbranded in that the statement "Net Weight Over 1½ Ozs.," borne on the label, was false and misleading since it was incorrect. It was alleged to be misbranded further in that the containers were so made, formed, or filled as to be misleading. It was alleged to be misbranded further in that it was in package form and did not bear an accurate statement of the quantity of contents.

On February 29, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MOLASSES

694. Adulteration of molasses. U. S. v. 37 Barrels and 4 Half-Barrels of Molasses. Default decree of condemnation, forfeiture, and destruction. (F. D. C. No. 1557. Sample Nos. 71527–D, 71556–D, 71557–D.)

This product was found to contain lead, which might have rendered it injurious to health.

On March 2, 1940, the United States attorney for the Southern District of California filed a libel against 37 barrels each containing 55 gallons, and 4 half-barrels each containing 30 gallons, of molasses at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about November 8, 1939, by Penick & Ford, Ltd., Inc., from New Orleans, La.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, namely, lead, which might have rendered it injurious to health, and which was unsafe within the meaning of the act. The article was labeled in part: "Bakers & Confectioners Supply Co., Distributors, Invincible Brand B.S. Molasses."

On April 11, 1940, no claimant having appeared, judgment of condemnation and forfeiture was entered and the product was ordered destroyed.

FLAVORS

695. Misbranding of lemon extract. U. S. v. 54 Dozen Bottles of Lemon Extract. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 684. Sample No. 79051–D.)

The bottles containing this product were paneled, and had thickened glass on the sides and bottoms, and long necks. The width of the bottle was considerably less than the width of the carton in which it was packed. No statement of the quantity of the contents appeared on the carton and that on the bottle label was expressed in terms of drachms and not of fluid ounces. Furthermore, the bottles contained less than the amount declared.

On October 7, 1939, the United States attorney for the Southern District of Georgia filed a libel against 54 dozen bottles of lemon extract at Augusta, Ga., alleging that the article had been shipped in interstate commerce on or about August 12, 1939, by the Davis Manufacturing Co. from Knoxville, Tenn.; and charging that it was misbranded. It was labeled in part: "Mothers Choice Brand."

The article was alleged to be misbranded in that the statement on the bottle, "4 Drachms Net," was false and misleading since it was not accurate; in that its containers were so made, formed, or filled as to be misleading; in that it was in package form and failed to bear an accurate statement of the contents, since the quantity found was less than the amount declared on the bottle label and the cartons did not bear any statement of the quantity of the contents; in that the statement of the quantity of contents, required by the statute to appear on the label, was not prominently placed thereon in such terms as to render it likely to be read and understood by the ordinary individual, since it expressed the quantity in drachms instead of fluid ounces; and in that the statement, "* * * guaranteed by the manufacturers to comply with all food and drug laws as labeled," was false and misleading since such statement would cause the purchaser to believe that the Government guaranteed the article.

On November 7, 1939, a default decree of condemnation and forfeiture was entered; and on November 14, 1939, an amended decree was ordered providing that the product be delivered to charitable institutions.

696. Misbranding of lemon extract. U. S. v. 168 Bottles of Lemon Extract. Default decree of condemnation and destruction. (F. D. C. No. 1244. Sample No. 78893–D.)

Examination showed that the bottles occupied less than 34 percent of the space in the cartons.

On December 27, 1939, the United States attorney for the Western District of Pennsylvania filed a libel against 168 bottles of lemon extract at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about October 21, 1939, by the Drew Corporation from Brooklyn, N. Y.; and charging that it was misbranded. It was labeled in part: "Drew's Pure Extract Lemon."

The article was alleged to be misbranded in that its containers (cartons) were so made, formed, or filled as to be misleading. It was alleged to be misbranded