

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of low Brix reading, the presence of soft and ragged fruit, excessively trimmed pieces, poorly peeled and blemished pieces, and because size and color were not uniform; and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On April 9, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22284. Adulteration and misbranding of confectionery. U. S. v. 204 Boxes of Confectionery. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32033. Sample nos. 65334-A to 65339-A, incl.)**

This case involved a shipment of confectionery which contained alcohol. The article was labeled "Not a Confection", in attempted disclaimer of responsibility for shipping confectionery containing spirituous liquor.

On February 27, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 204 boxes of confectionery at Forest Park, Ill., alleging that the article had been shipped in interstate commerce, on or about February 12, 1934, by M. Ellingsen, from Cleveland, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Bourbon Cordials (not a confection) \* \* \* A drink in a Chocolate Cup."

It was alleged in the libel that the article was adulterated under the provisions of the law relating to confectionery, in that it contained spirituous liquor.

Misbranding was alleged under the provisions of the law relating to food, in that the statement on the label, "Cordials (not a confection)", was false and misleading and tending to deceive and mislead the purchaser.

On April 6, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

**22285. Adulteration and misbranding of canned cherries. U. S. v. 50 Cases of Canned Cherries. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 32044. Sample no. 60427-A.)**

This case involved a shipment of canned cherries which were found to contain worms and excessive pits.

On March 2, 1934, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of canned cherries at Tampa, Fla., alleging that the article had been shipped in interstate commerce, on or about February 3, 1934, by Reid, Murdoch & Co., from Salem, Oreg., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Red Lily Water Pack Red Pitted Cherries \* \* \* Reid, Murdoch & Co. Chicago, Ill."

It was alleged in the libel that the article was adulterated in that it consisted in part of a filthy vegetable substance.

Misbranding was alleged for the reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because of the presence of an excessive number of pits, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On April 27, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*