

E. E. Eller Produce Co., from North Wilkesboro, N. C., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On July 5, 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.*

**22840. Misbranding of canned cherries. U. S. v. 250 Cases of Cherries. Decree of condemnation. Product released under bond to be relabeled.** (F. & D. no. 32967. Sample no. 38885-A.)

Sample bottles of cherries taken from the shipment involved in this case were found to contain less than the labeled weight.

On June 18, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 cases of cherries in bottles at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce, on or about May 17, 1934, by the Falcon Packing Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Bottle) "Falcon Brand Cherries Net Weight 2½ Ozs. \* \* \* Falcon Packing Co., Inc., Distributors, New York."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Weight 2½ Ozs.," was false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On July 3, 1934, the Falcon Packing Co., Inc., having appeared as claimant for the property and having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released to the claimant for relabeling, upon the execution of a bond in the sum of \$500. On July 19, 1934, the product having been relabeled, the bond was ordered exonerated upon payment of costs.

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

**22841. Misbranding of whisky. U. S. v. 13 Cases and 18 Bottles of Whisky. Decree of condemnation and forfeiture. Product released under bond to be relabeled.** (F. & D. no. 32974. Sample no. 41524-A.)

This case involved a shipment of whisky that was short volume; the labeling conveyed the impression that the article was of domestic origin, whereas it was not; the quantity of the contents was not declared in terms of the largest unit, namely, 1 pint.

On June 19, 1934, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 cases, each containing 24 pint bottles, and 18 pint bottles of whisky, at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce, on or about January 31, 1934, by the Alliance Distributors, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Main bottle label) "Horse Shoe Bourbon Whiskey Mill Creek Distillery Limited, Havana, Cuba, Contents 16 Fluid Ounces," the words "Havana, Cuba" being almost invisible.

It was alleged in the libel that the article was misbranded in that the statement on the subsidiary bottle label, "Caution: This Whiskey is guaranteed to be made from choicest American grain under supervision of Government inspectors and distilled by American distillers," and the statement on the bond label, "Bottled in bond under government supervision," were false and misleading and tended to deceive and mislead the purchaser in that they implied that the whisky was of domestic origin, whereas it was not. Misbranding was alleged for the further reason that the statement, "Contents 16 Fluid Ounces", was false and misleading and tended to deceive and mislead the purchaser; and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement was incorrect, and was not made in terms of the largest unit.