

**21101. Adulteration of butter. U. S. v. Arthur S. Gustafson (Henriette Creamery Co.). Plea of guilty. Fine, \$10. (F. & D. no. 29440. I. S. no. 33946.)**

This case was based on an interstate shipment of butter, samples of which were found to contain less than 80 percent by weight of milk fat, the standard for butter prescribed by Congress.

On May 2, 1933, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Arthur S. Gustafson, trading as Henriette Creamery Co., Henriette, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about June 3, 1931, from the State of Minnesota into the State of New York, of a quantity of butter that was adulterated.

It was alleged in the information that the article was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923.

On May 2, 1933, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$10.

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

**21102. Adulteration and misbranding of canned cherries. U. S. v. Webster Canning & Preserving Co., Inc. Plea of guilty. Fine, \$50. (F. & D. no. 29501. I. S. nos. 37644, 39545.)**

This case was based on an interstate shipment of a product, labeled "Pitted Red Cherries", which was found to consist in part of unpitted cherries.

On March 27, 1933, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Webster Canning & Preserving Co., Inc., Webster, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 15, 1932, from the State of New York into the State of West Virginia, and on or about March 26, 1932, from the State of New York into the State of Maryland, of quantities of canned cherries which were adulterated and misbranded. The article was labeled in part: (Can) "Pitted Red Cherries." A portion was further labeled: "New York State Products Packed by Webster Canning & Preserving Co. Webster, N. Y."

It was alleged in the information that the article was adulterated in that a substance, red cherries from which the pits had not been removed, had been substituted in part for pitted red cherries, which the article purported to be.

Misbranding was alleged for the reason that the statement, "Pitted Red Cherries", borne on the cans, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it did not consist solely of pitted red cherries, but consisted in part of red cherries from which the pits had not been removed.

On May 25, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

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

**21103. Misbranding of canned cherries. U. S. v. 78 Cases of Canned Cherries. Default decree of condemnation, forfeiture, and sale. (F. & D. no. 29844. Sample no. 28114-A.)**

This case involved an interstate shipment of canned cherries found to contain excessive pits, and which were not labeled to indicate that they were substandard.

On February 15, 1933, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 78 cases of canned cherries at El Paso, Tex., alleging that the article had been shipped in interstate commerce, on or about August 22, 1932, by the Perry Canning Co., from Ogden, Utah, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Golden 'Q' Brand Water Packed Red Sour Pitted Cherries Perry Canning Co."

It was alleged in the libel that the article was misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of

Agriculture for such canned food because it contained an excessive number of pits, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard. Misbranding was alleged for the further reason that the statement "Pitted Cherries" was false and misleading and deceived and misled the purchaser.

On May 13, 1933, 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 sold by the United States marshal. Before being sold the goods were labeled: "Below U. S. Standard, Good Food, not high grade, Partially Pitted Cherries."

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

**21104. Adulteration and misbranding of candy. U. S. v. 9 Boxes of Candy. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 29893. Sample no. 23558-A.)**

This case involved an interstate shipment of candy in which the chocolate coating contained paraffin or other mineral wax. The label of the article bore unwarranted health claims.

On March 6, 1933, 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 nine boxes of candy at Chicago, Ill., alleging that the article had been shipped in interstate commerce, January 22, 1933, by the Battle Creek Food Co., from Battle Creek, Mich., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Battle Creek Health Chocolate Nut Bar A delicious Health Candy \* \* \* The Battle Creek Food Co., Battle Creek, Mich."

It was alleged in the libel that the article was adulterated in that a substance, paraffin or other mineral wax, had been mixed and packed with the article, so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in whole or in part for cacao butter in the so-called chocolate coating. Adulteration was alleged for the further reason that the article was mixed in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the statement on the label, "Chocolate", was false and misleading and deceived and misled the purchaser when applied to a coating simulating chocolate, but in which paraffin or other mineral wax had been substituted for cacao butter. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article. Misbranding was alleged for the further reason that the statements, "Health Chocolate \* \* \* A \* \* \* Health Candy", borne on the label, were false and fraudulent, since the article contained no ingredient or combination of ingredients capable of producing the effects claimed.

On May 9, 1933, 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.*

**21105. Adulteration and misbranding of vinegar. U. S. v. 19 Barrels and 20 Cases of Vinegar. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 28302. I. S. nos. 23230 to 23233 incl. S. no. 6177.)**

This action involved interstate shipments of barreled and bottled vinegar, which was found to contain arsenic and lead in amounts which might have rendered it injurious to health. A portion of the vinegar in barrels was found to be of lower acidity than labeled.

On May 10, 1932, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 19 barrels and 20 cases of vinegar at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce, the former on or about March 16, 1932, and the latter on or about March 24, 1932, by the Western Cider Vinegar Co., from Freewater, Oreg., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Barrel lots) "Selecto Brand Genuine Apple