

State of Washington into the State of Oregon of a quantity of canned cherries which were misbranded. The article was labeled in part: "Real Fruit Brand \* \* \* Pitted Red Sour Cherries In Water Packed By National Fruit Canning Co. Seattle-Wash."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, 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 October 19, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$300 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25311. Adulteration of frozen eggs. U. S. v. Litchfield Produce Co. Plea of guilty. Fine, \$10.** (F. & D. no. 35919. Sample no. 20684-B.)

This case involved frozen eggs which were in part decomposed.

On September 24, 1935, 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 the Litchfield Produce Co., a corporation, Litchfield, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about July 7, 1934, from the State of Minnesota, into the State of New York of a quantity of frozen eggs which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On October 14, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$10.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25312. Adulteration of apples. U. S. v. George W. Haxton & Son, Inc. Plea of guilty. Fine, \$50.** (F. & D. no. 35920. Sample nos. 13762-B, 13763-B, 14459-B.)

Examination of the apples involved in this case showed the presence of arsenic and lead in amounts which might have rendered them injurious to health.

On September 9, 1935, 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 George W. Haxton & Son, Inc., Oakfield, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about September 15, 1934, from the State of New York into the State of Massachusetts, and on or about September 29, 1934, from the State of New York into the State of Illinois of quantities of apples which were adulterated.

The article was alleged to be adulterated in that it contained added poisonous and deleterious substances, namely, arsenic and lead, which might have rendered it injurious to health.

On October 21, 1935, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$50.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25313. Adulteration and misbranding of butter. U. S. v. George Freese's Sons Co. Plea of nolo contendere. Fine, \$100 and costs.** (F. & D. no. 35924. Sample nos. 2259-B, 2260-B, 2261-B.)

This case was based on a shipment of butter which was low in milk fat and was short in weight.

On September 20, 1935, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George Freese's Sons Co., a corporation, Fostoria, Ohio, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about October 29, 1934, from the State of Ohio into the State of Michigan of quantities of butter which was adulterated and misbranded. The article was labeled, variously: "Fostoria's \* \* \* Roll Butter Fostoria, Ohio 1 Lb. Net"; "Golden Valley Butter \* \* \* Lloyd L. Lawless—Toledo, Ohio One Pong Net"; "Pure Creamery Butter \* \* \* Fostoria, Ohio Fostoria Creamery Co. George Freese's Sons Co. Proprietors One Pound-Net." A portion of the article was in quarter-pound cubes labeled "¼ Lb. Net Weight", and a portion was in half-pound prints labeled "½ lb. Net Weight."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter" was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it was not butter as defined and required by law but was a product containing less than 80 percent by weight of milk fat. Misbranding was alleged for the further reason that the statements "1 Lb. Net", "One Pound Net", " $\frac{1}{4}$  Lb. Net Weight", and " $\frac{1}{2}$  Lb. Net Weight", borne on the labeling, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser since each of the majority of the packages, prints, and cubes contained less than declared. 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 October 9, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of \$100 and costs.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25314. Adulteration of tomato pulp. U. S. v. Fred L. Funderburg (Sweetser Canning Co.). Plea of guilty. Fine, \$25. (F. & D. no. 35925. Sample nos. 25529-B to 25537-B, incl., 25539-B.)**

This case was based on interstate shipments of tomato pulp which was decomposed.

On September 25, 1935, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Fred L. Funderburg, trading as the Sweetser Canning Co., Sweetser, Ind., charging shipment by said defendant in violation of the Food and Drug Act, on or about October 1, 13, 14, 16, and 21, 1934, from the State of Indiana into the State of Illinois, of quantities of tomato pulp which was adulterated.

It was alleged that the article was adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On October 21, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*

**25315. Misbranding of cottonseed cake and meal. U. S. v. East St. Louis Cotton Oil Co. (Pine Bluff Cotton Oil Mill). Plea of guilty. Fine, \$25. (F. & D. no. 35926. Sample nos. 27423-B, 33001-B to 33004-B, incl., 33008-B, 33009-B.)**

This case was based on interstate shipments of cottonseed cake and meal that contained less protein than declared on the label.

On September 20, 1935, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the East St. Louis Cotton Oil Co., a corporation, trading as the Pine Bluff Cotton Oil Mill at Pine Bluff, Ark., alleging shipment by said company in violation of the Food and Drugs Act on or about January 24, February 14, February 16, and February 25, 1935, from the State of Arkansas into the State of Kansas, of quantities of cottonseed cake and meal which was misbranded. A portion of the article was labeled: "Chickasha Prime Cottonseed Cake or Meal \* \* \* Guaranteed Analysis Protein, not less than 43.00 per cent." The remainder of the article was labeled: "Army Brand Prime Quality 43% Protein Cottonseed Cake and Meal Manufactured For Louis Tobian & Company Dallas, Texas Guaranteed Analysis: Crude Protein, not less than 43.00%."

The article was alleged to be misbranded in that the statements, "Guaranteed Analysis Protein, not less than 43.00%", with respect to a portion of the product, and the statements, "43% Protein" and "Guaranteed Analysis: Crude Protein, not less than 43.00%", with respect to the remainder, borne on the tags attached to the sacks containing the article, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser since it did not contain 43 percent of protein but did contain a less amount.

On October 12, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$25.

R. G. TUGWELL, *Acting Secretary of Agriculture.*