

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