

further reason that it was labeled so as to deceive and mislead the purchaser, since each of a large number of the cans examined contained less than 1 gallon of the article. 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 January 29, 1935, a plea of nolo contendere was entered and the defendant was found guilty. Sentence was suspended and the defendant was placed on 30 days' probation.

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

24246. Adulteration of cabbage. U. S. v. Charles E. Gibson, Inc. Plea of guilty. Fine, \$10. (F. & D. no. 33861. Sample nos. 62487-A, 62489-A.)

Examination of the cabbage involved in this case showed the presence of arsenic and lead in amounts that might have rendered it injurious to health.

On November 24, 1934, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles E. Gibson, Inc., Meggett, S. C., alleging shipment by said company in violation of the Food and Drugs Act, on or about May 16, 1934, from the State of South Carolina into the State of Maryland, of quantities of cabbage which was adulterated. The article was labeled in part: "Gibson Brand Grown and Packed by Chas. M. Gibson Co. Meggett, S. C."

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

On January 23, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$10.

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

24247. Adulteration and misbranding of butter. U. S. v. Bridgeman-Russell Co. Plea of guilty. Fine, \$50. (F. & D. no. 33862. Sample nos. 68224-A, 68238-A.)

This case was based on interstate shipments of butter that contained less than 80 percent of milk fat.

On December 4, 1934, 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 Bridgeman-Russell Co., a corporation, Duluth, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about March 7 and March 14, 1934, from the State of Minnesota into the State of Rhode Island, of quantities of butter which was adulterated and misbranded. The article was labeled in part: (Case) "Ferncrest * * * Creamery Butter Cooper & Sisson Inc. Providence, R. I."; (carton) "Ferncrest Creamery * * * Butter."

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", borne on the case and carton, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser since the said statement represented that the article was butter, a product containing not less than 80 percent by weight of milk fat; whereas it was not butter since it contained less than 80 percent by weight of milk fat.

On December 4, 1934, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50.

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

24248. Adulteration and misbranding of chocolate dates and pine patties. U. S. v. S. Fisher & Co. Plea of guilty. Fine, \$100. (F. & D. no. 33864. Sample nos. 51690-A, 67606-A, 67607-A, 67608-A, 67623-A, 68887-A.)

This case was based on interstate shipments of products which were represented to be chocolate-covered dates and chocolate-covered pineapple, respectively. Examination showed that the chocolate covering of both products contained excessive cocoa shells, and that the product represented to be chocolate-covered pineapple consisted of chocolate-covered pineapple cores.

On December 10, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the

district court an information against S. Fisher & Co., a corporation, Hoboken, N. J., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 17, February 21, February 27, and March 6, 1934, from the State of New Jersey into the State of Pennsylvania, of quantities of chocolate-covered dates and pine patties which were adulterated and misbranded. The articles were labeled, variously: "Fisher's * * * Choc. Dates Manufactured by S. Fisher & Co. Inc. Hoboken, N. J."; "Fisher's * * * Pine Patties Manufactured by S. Fisher & Co. Inc. Hoboken, N. J."; "Fisher's Chocolate Covered Dates"; "Fisher's Candies * * * Choc. Pitted Dates Guaranteed by S. Fisher & Co. Inc. Hoboken, New Jersey, U. S. A."

The articles were alleged to be adulterated in that a substance, excess cocoa bean shell, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and had been substituted in part for the said articles. Adulteration of the pine patties was alleged for the further reason that a substance, pineapple core, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality, and had been substituted in part for the said article.

Misbranding was alleged for the reason that the statements, "Choc. Dates", "Chocolate Dates", "Pine Patties", and "Choc. Pitted Dates", borne on the labels of the respective products, were false and misleading and for the further reason that the articles were labeled as aforesaid so as to deceive and mislead the purchaser, since the said statements represented that the articles were dates and pineapple covered with chocolate, whereas they were not dates and pineapple covered with chocolate but were dates and pineapple cores covered with a coating containing more cocoa bean shell than chocolate contains.

On January 25, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$100.

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

24249. Adulteration of butter. U. S. v. Arnold Cooperative Creamery Co. Plea of guilty. Fine, \$50. (F. & D. no. 33872. Sample no. 6914-B.)

This case involved an interstate shipment of butter that was found to contain less than 80 percent by weight of milk fat.

On December 26, 1934, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Arnold Cooperative Creamery Co., a corporation, Arnold, Nebr., alleging shipment by said company in violation of the Food and Drugs Act on or about July 10, 1934, from the State of Nebraska into the State of New York, of a quantity of butter which was adulterated.

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 defined by the act of Congress of March 4, 1923, which the article purported to be.

On January 14, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50.

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

24250. Adulteration of canned prunes, and misbranding of canned pitted cherries. U. S. v. Ray-Maling Co., Inc. Plea of guilty. Fine, \$180. (F. & D. no. 33876. Sample nos. 47768-A, 60436-A, 60446-A.)

This case was based on a shipment of canned prunes which were found to be in part decomposed; and a shipment of canned pitted cherries which were short weight and which fell below the standard established by regulation of the Secretary of Agriculture, since they were water-packed and were partially pitted, and were not labeled to indicate that they were partially pitted or properly labeled to show that they were water-packed.

On January 16, 1935, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Ray-Maling Co., Inc., a corporation, Hillsboro, Oreg., alleging shipment by said company on or about February 27, 1934, from the State of Oregon into the State of California of a quantity of canned prunes which were adulterated in violation of the Food and Drugs Act, and on or about February 7, 1934, from the State of Oregon into the State of California of a quantity of canned pitted cherries which were misbranded in violation of said act as amended. The articles were labeled in part, respec-